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PTO/SB/65 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

LTL001US

APR 14 2010

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450
Fax: (571) 273-8300

OFFICE OF PETITIONS

04/12/2010 DALLEN 00000034 501767 6363036

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at
(571) 272-3282. 01 FC:1599 1190.00 DA

Patent Number: 6,363,036

Application Number: 09/474,522

Issue Date: March 26, 2002

Filing Date: December 29, 1999

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

☐ is a reissue of original Patent No. _____ original issue date _____
original application number _____
original filing date _____☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application
_____ filed on _____**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

March 26, 2010

Date


Signature

David Millers

Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input checked="" type="checkbox"/> \$ 490.00	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input checked="" type="checkbox"/> \$ 1240.00	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 1730.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700.00 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 700.00

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of \$ _____☒ Please charge Deposit Account No. 50-1767 the sum of \$ 2430.00☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. 50-1767

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7. OVERPAYMENT

As to any overpayment made, please

☒ Credit to Deposit Account No. 50-1767

OR

☐ Send refund check

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WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.


Signature(s) of Petitioner(s)March 26, 2010

Date

David Millers

Typed or printed name(s)

37,396

Registration Number, if applicable

Patent Law Offices of David Millers

Address

(530) 621-4545

Telephone Number

1221 Sun Ridge Road, Placerville, CA 95667

Address

ENCLOSURES:

- ☒ Maintenance Fee Payment
- ☒ Statement why maintenance fee was not paid timely
- ☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)
- ☒ Other: Exhibits A and B

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37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

David Millers
Signature

March 26, 2010

Date

David Millers

Type or printed name

37,396

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

Please see attachments.

(Please attach additional sheets if additional space is needed)

[Page 4 of 4]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: James P. Siepmann

Assignee: LightTime, LLC

Title: LIGHT CLOCK

Patent No.: 6,363,036

Application No.: 09/474,522

Conf. No.: 2334

Granted: March 26, 2002

Filed: December 29, 1999

Docket No.: LTL001US

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COMMISSIONER FOR PATENTS
P.O. Box 1450
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STATEMENT

For U.S. Pat. No. 6,363,036, Petitioner, LightTime, LLC, which is owner of the entire interest in U.S. Pat. No. 6,363,036, requests acceptance of the unavoidably delayed payment of the maintenance fee and surcharge which was due March 26, 2006. Petitioner further requests reinstatement of U.S. Pat. No. 6,363,036 and acceptance of the maintenance fee and surcharge, which is due March 26, 2010, for U.S. Pat. No. 6,363,036. An accompanying petition (Form PTO/SB/65) authorizes charging of these fees to deposit account No. 50-1767.

The delay in the payment of the maintenance fee due March 26, 2006 was unavoidable because Petitioner took reasonable steps to ensure that the maintenance fee would be timely paid. Further, Petitioner is promptly filing the accompanying petition after recently discovering that, contrary to the representations of their prior patent attorney, John W. Eldredge, the maintenance fee due March 26, 2006 for U.S. Pat. No. 6,363,036 was not paid.

More specifically, Petitioner took reasonable care to ensure that maintenance fee would be paid in a timely fashion by retaining a patent attorney, John W. Eldredge, Reg. No. 37,613 to represent Petitioner in patent matters including U.S. Pat. No. 6,363,036. (See Exhibit A, the Declaration of Clark Caflisch, statement 5.) Mr. Eldredge was known to the President and CEO of Petitioner and had performed his duties well for a period of time. (See Exhibit A, statement 6-9.) Petitioner had paid Mr. Eldredge and law firms at which he worked for fees to be paid to the USPTO (see Exhibit A, statement 11) and Petitioner

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DAVID MILLERS

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PLACERVILLE, CA 95669

believed that the fees paid were being used to properly maintain their patent portfolio including U.S. Pat. No. 6,363,036. Further, Petitioner received reports from Mr. Eldredge regarding patent matters, and those reports indicated that U.S. Pat. No. 6,363,036 was in force. (See Exhibit A, statements 13-15 and Exhibit B.) Petitioner's business plan is based on the creation and licensing of technology and intellectual property, which was well known to Mr. Eldredge. Accordingly, Petitioner had a very reasonable expectation that the maintenance fees for U.S. Pat. No. 6,363,036 would be paid by Mr. Eldredge.

Petitioner did not know that Mr. Eldredge had failed to pay the maintenance fee, and the circumstances regarding Mr. Eldredge's neglect of Petitioner's interest seems to have been brought about by extraordinary circumstances that Petitioner had no way to anticipate. In particular, Mr. Eldredge seems to have been profoundly affected by a personal tragedy in the death or disappearance of his daughter. (See Exhibit A, statement 19.)

Petitioner did not receive notification from the USPTO regarding the maintenance fee possibly because of Mr. Eldredge's departure from his prior law firm (Exhibit A, statements 8 and 9) and/or because of a change in the address for Petitioner's main office (Exhibit A, statement 18.)

Petitioner first suspected a problem with Mr. Eldredge's representation when Mr. Eldredge stopped returning telephone calls on or about May 1, 2009. (See Exhibit A, statements 19 and 20.) At that point, Petitioner acted in a timely manner to try to locate Mr. Eldredge and determine whether he was capable of representing Petitioner (Exhibit A, statement 19) and then to retain replacement patent counsel (Exhibit A, statements 21 and 22) when Petitioner could not locate Mr. Eldredge. Even then, Petitioner was unaware that the maintenance fee for U.S. Pat. No. 6,363,036 was unpaid or that U.S. Pat. No. 6,363,036 had expired.

Petitioner was first informed on December 15, 2009 that the maintenance fee for U.S. Pat. No. 6,363,036 was unpaid and that U.S. Pat. No. 6,363,036 had expired. (See Exhibit A, statement 22.) Since then, Petitioner acted to investigate the status of their patent portfolio and file the accompanying petition. Petitioner's action to file the petition is prompt particularly because the failure of Mr. Eldredge to perform his duties has left several of Petitioner's patent matters (see Exhibit B) in disarray and since the lapse of time since the maintenance fee was due has made investigation of the relevant facts more difficult.

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In short, Petitioner took reasonable care to ensure that the maintenance fee would be timely paid but because of unexpected negligence or deception by a trusted attorney unavoidably failed to pay the maintenance fee due March 26, 2006 in U.S. Pat. No. 6,363,036. Petitioner is now acting promptly to pay the maintenance fee and revive their patent.

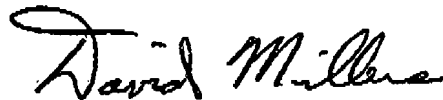
Please contact the undersigned attorney if there are any questions concerning the accompanying petition or this statement.

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 2738300.


David Millers

03/26/2010
Date

Respectfully submitted,



David Millers
Reg. No. 37,396

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: James P. Siepmann

Assignee: LightTime, LLC

Title: LIGHT CLOCK

Patent No.: 6,363,036

Application No. 09/474,522

Granted: March 26, 2002

Filed: December 29, 1999

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EXHIBIT A
DECLARATION OF CLARK CAFLISCH
IN SUPPORT OF PETITION TO REVIVE PATENT

I, Clark Caflisch, hereby declare that:

1. LightTime, LLC is the owner of the entire interest in U.S. Pat. No. 6,363,036 as evidenced by an assignment recorded with the United States Patent and Trademark Office (USPTO) at reel 010778 and frame 0891.

2. I am currently and have been the President and CEO of LightTime, LLC since its inception on April 1, 2000.

3. LightTime, LLC is a "manager managed" LLC, and I have sole authority on behalf of LightTime, LLC to make decisions on patent matters.

4. LightTime, LLC has always intended and sought to maintain U.S. Pat. No. 6,363,036.

5. From its inception until about July of 2009, LightTime, LLC. retained Patent Attorney, John W. Eldredge, Reg. No. 37,613 and law firms at which Mr. Eldredge worked to handle patent matters on behalf of LightTime, LLC. Mr. Eldredge's duties in this regard included preparation and prosecution of patent applications for LightTime, LLC and particularly maintenance of issued U.S. Pat. No. 6,363,036.

6. I have worked with Mr. Eldredge in multiple enterprises since about 1995, and I had believed him to be a competent patent attorney until later half of 2009.

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- 1 -

PAT. NO. 6,363,036

7. I believe that Mr. Eldredge was at the law firm of Stradling, Yocca, Carlson & Rauth when U.S. Pat. No. 6,363,036 issued on March 26, 2002 and left that firm in 2003.

8. I believe that Mr. Eldredge was at the law firm of Meyers, Dawes, Andras and Sherman LLP from 2003 until late 2005 or early 2006.

9. I believe that Mr. Eldredge had his own law practice beginning in late 2005 or early 2006, and particularly when U.S. Pat. No. 6,363,036 expired on March 26, 2006.

10. When representing LightTime, LLC, Mr. Eldredge received equity in LightTime, LLC for his time spent working on behalf of LightTime, LLC and received payments for fees paid on behalf of LightTime, LLC.

11. The fees that LightTime, LLC paid for patent matters included \$24,412 paid to the law firm of Meyers, Dawes, Andras in 2005 and \$4000 paid to Mr. Eldredge personally in 2006, which overlaps with the March 26, 2005 to March 26, 2006 window for payment of the first maintenance fee of U.S. Pat. No. 6,363,036.

12. With his equity position in LightTime LLC, Mr. Eldredge also held the title of Vice President and General Counsel of LightTime LLC, but Mr. Eldredge never had the authority to abandon a patent or patent application belonging to LightTime LLC without my approval.

13. Mr. Eldredge periodically reported to me on the status of the patent matters of LightTime, LLC.

14. Mr. Eldredge reported to me regarding the patent matters of LightTime LLC at a meeting attended by Mr. Eldredge, Robert Potenza, and myself on December 3, 2008, and in that meeting, Mr. Eldredge provided a spreadsheet showing LightTime patent matters including U.S. Pat. 6,363,036.

15. The attached copy marked Exhibit B is a copy of the spread sheet provided by Mr. Eldredge and indicates U.S. Pat. 6,363,036 was issued with no indication that fees were due or that the patent had expired.

16. Mr. Eldredge never indicated to me that U.S. Pat. No. 6,363,036 had expired.

17. I never received mail or other notice from the USPTO indicating that U.S. Pat. 6,363,036 had expired.

18. LightTime, LLC had an office at 375 City Center, Suite N, Oshkosh, WI 54901 but moved that office on or about September or October of 2005 to Pacur Office Center, 355

PATENT LAW OFFICES OF
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1271 SUN REDGE ROAD
PLACERVILLE, CA 95667

TEL: (530) 671-4545
FAX: (530) 622-1343

Moser Street, Oshkosh, WI, 54901. Notifications regarding U.S. Pat. 6,363,03 that may have been sent to 375 City Center, Suite N, Oshkosh, WI 54901 were never received by me or LightTime, LLC.

19. I have been unable to contact Mr. Eldredge since or about May 1, 2009. Since about May 1, 2009, I have sent numerous emails and made numerous telephone calls to Mr. Eldredge without receiving any reply. While traveling in California, I drove to Mr. Eldredge's home address on or about July 15, 2009 and found his house unoccupied. As a result of on-line searches since May 1, 2009, I now believe that Mr. Eldredge was divorced on April 24, 2009, the property taxes on his home have not been paid in several years, and Mr. Eldredge is no longer a member of the California State Bar. These problems may have begun when Mr. Eldredge's daughter went missing while surfing in Hawaii, the apparent victim of a shark attack on April 4, 2004. In spite of the distressing events of that time, Mr. Eldredge continued to represent to me and I believed that LightTime's patent portfolio was being properly managed.

20. I do not currently know the whereabouts of Mr. Eldredge or how to contact him.

21. In July of 2009, LightTime, LLC undertook to obtain the assistance of new patent counsel, and retained David Millers, Reg. No. 37,396 on or about November 30, 2009.

22. On or about December 15, 2009, I first became aware that U.S. Pat. 6,363,036 had expired when informed of the fact by LightTime's new patent counsel, David Millers.

23. Since being informed that U.S. Pat. No. 6,363,036 was expired, I instructed Dr. Millers to revive U.S. Pat. No. 6,363,036 if possible.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature: 

Declarant: Clark Caffisch, President and CEO, LightTime, LLC

Date: 03-26-2010

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DAVID MILLERS

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PLACERVILLE, CA 95667

PH: (530) 629-4345
FAX: (530) 622-1561

Exhibit B

As of 12/03/08	Docket Number	Title Or Mark	Application Number	Filing Date	Refile Date	Priority Application	Priority Filing Date	Current Status	Patent Or Reg. No.	Issue Or Reg. Date
TRADEMARKS										
	LT11.TMA.01	LightTime Keep	76541.937	08/29/03				Dead		
	LT11.TMA.02	LightClock Keep	76541.936	08/29/03				Dead		
	LT11.TMA.03	True Ladar Zoom Keep	76541.935	08/29/03				Dead		
	LT11.TMA.04	Angle Amplifier DO NOT RENEW	76541.934	08/29/03				Dead		
	LT11.TMA.05	Optical Angle Amplifier DO NOT RENEW	76541.933	08/29/03				Dead		
	LT11.TMA.06	GigaPulse Bob to Evaluate	76533.18	04/21/05				Dead		
	LT11.TMA.07	MultisourceLaser Keep	76536.717	04/21/05				Dead		
	LT11.TMA.08	Optical Pulse Multiplier Bob to Evaluate	76536.719	04/21/05				Dead		
		MemScan to be filed						to be filed		
PROVISIONAL PATENT APPLICATIONS										
	LT11.PAP.01	Monolithic Laser Clock	60434.693	12/18/02				Converted		
	LT11.PAP.02	Optical Timing Definition	60434.539	12/18/02				Converted		
	LT11.PAP.03	High Power Pulsed CW Laser	60434.695	12/18/02				Converted		
	LT11.PAP.04	Laser Pulse Regenerator	60434.571	12/18/02				Converted		
	LT11.PAP.05	Ladar With MEMS Mirror	60502.130	09/12/03	09/10/04			timed out		
	LT11.PAP.06	Delay Line Rep Rate Tuning	60501.819	08/22/03	09/10/04			Converted		
	LT11.PAP.07	Pulse Train Intensity & Pattern Gen	60502.134	08/12/03	09/10/04			Converted		
	LT11.PAP.08	Optical Clock MPU Integration	60502.152	09/12/03	09/10/04			Converted		
	LT11.PAP.09	Optical Gen of Sub ns Pulses	60496.234	08/28/03	09/10/04			Converted		
	LT11.PAP.10	Hybrid Monolithic Lasers for Multiwavelength Mode-locking	60612.051	09/21/04				Converted		
	LT11.PAP.11	Monolithic Multisource Laser	60612.050	09/21/04				Converted		
	LT11.PAP.12	Multisource Laser for up	60612.281	09/21/04				not filed		
	LT11.PAP.13	Ladar with MEMS Mirror Scanner Angle Amplification and Zoom	not filed	08/20/05				Converted		
	LT11.PAP.14	Passively Mode-locked Raman Laser	60673.953	04/21/05				Converted		
	LT11.PAP.15	3D MEMS Ladar	not filed	03/28/06				not filed		
UTILITY PATENT APPLICATIONS										
	LT11.PAU.01	LightClock (US Application)	09474.522	12/29/99		60114.417; 60116.517	12/31/88	Issued	6,353,036	03/26/02
	LT11.PAU.01.EP	LightClock (European Application) Discontinued	PCT/US99/01288	12/29/99			12/29/99	Pending		
	LT11.PAU.02	High Output Power Nanosecond Pulses From CW Lasers Review	101691.898	10/22/03		60434.539; 60434.693; 60434.695; 60434.571	12/18/02	Pending		
	LT11.PAU.03	Optical Timing Definition With Jitter Free Reference Review	101692.175	10/22/03		60434.539; 60434.571; 60434.695	12/18/02	Pending		
	LT11.PAU.04	Optical Timing Definition Review	101692.176	10/22/03		60434.539; 60434.571; 60434.695	12/18/02	Pending		
	LT11.PAU.05	Monolithic Optical Clock Review	10741.508	12/18/03		60434.693; 60434.695; 60673.571	12/18/02	Pending		
	LT11.PAU.06	Monolithic Multisource Laser Review	10719.476	08/21/05		60612.051; 60612.050; 60612.281; 60673.953	09/21/04	Pending		